

1
2
3
4
5
6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 * * *

9 MARYANNE DIGGS,

10 Plaintiff,

11 v.

12 BLOCH, *et al.*,

13 Defendants.

Case No. 3:15-cv-00510-MMD-VPC

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
VALERIE P. COOKE

14 Before the Court is the Report and Recommendation of United States Magistrate
15 Judge Valerie P. Cooke (ECF No. 11) ("R&R"). Plaintiff was given until April 24, 2017, to
16 object to the R&R (see ECF No. 11). On April 21, 2017, plaintiff filed a motion to extend
17 time to file objections (ECF No. 12) and was granted an extension until May 24, 2017
18 (ECF No. 14). To date, no objection to the R&R has been filed.

19 This Court "may accept, reject, or modify, in whole or in part, the findings or
20 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party
21 timely objects to a magistrate judge's report and recommendation, then the court is
22 required to "make a *de novo* determination of those portions of the [report and
23 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails
24 to object, however, the court is not required to conduct "any review at all . . . of any issue
25 that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
26 Indeed, the Ninth Circuit has recognized that a district court is not required to review a
27 magistrate judge's report and recommendation where no objections have been filed. See
28 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

1 of review employed by the district court when reviewing a report and recommendation to
2 which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
4 view that district courts are not required to review "any issue that is not the subject of an
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
6 the court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
8 which no objection was filed).

9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
10 determine whether to adopt Magistrate Judge Cooke's R&R. On January 3, 2017, the
11 Magistrate Judge screened and dismissed Plaintiff's amended complaint without
12 prejudice and gave Plaintiff until February 2, 2017, to file an amended complaint to
13 address the deficiencies of her claims. (ECF No. 10.) The Magistrate Judge advised
14 Plaintiff that her failure to timely file an amended complaint will lead to a
15 recommendation to dismiss her complaint with prejudice. (*Id.* at 8.) On April 10, 2017,
16 two months after expiration of the time for Plaintiff to file an amended complaint, the
17 Magistrate Judge issued the R&R, recommending dismissal of the complaint with
18 prejudice because of Plaintiff's failure to comply with the dismissal order. (ECF No. 11.)
19 Plaintiff had until April 24, 2017, to file an objection to the R&R. On April 21, 2017,
20 Plaintiff filed a motion, seeking an indefinite extension of time to file an amended
21 complaint without stating any reason supporting her request as required under LR IA 6-
22 1(a). (ECF No. 13.) Despite these deficiencies, the Court granted Plaintiff an extension
23 until May 24, 2017, to file an amended complaint. (ECF No. 14.) With this extension,
24 Plaintiff was essentially given over 120 days to file an amended complaint. To date,
25 Plaintiff has not filed an amended complaint or asked for another extension of time.
26 Under these circumstances, the Court agrees with the Magistrate Judge's
27 recommendation and will adopt the R&R.


28 ///

1 It is therefore ordered, adjudged and decreed that the Report and
2 Recommendation of Magistrate Judge Valerie P. Cooke (ECF No.11) is accepted and
3 adopted in its entirety.

4 It is ordered that the complaint (ECF No. 8) is dismissed with prejudice.

5 It is further ordered that the Clerk close this case.

6 DATED THIS 31st day of May 2017.

7
8 
9 _____
10 MIRANDA M. DU
11 UNITED STATES DISTRICT JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28